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SUPREME COURT OF THE UNITED STATES.

No. 136.

FREDERICK SCHUCHARDT & FREDERICK C. GEBHARD, LIBEL'S AND APP'TS,

VS.

WINTHROP S. BABBIDGE AND AL., CLAIMANTS OF ½ OF THE PROCEEDS OF THE SHIP ANGELIQUE.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ARKANSAS.

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UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, John W. Nelson, clerk of the Circuit Court of the United States of America for the southern District of [L. S.] New York, in the second circuit, do hereby certify, that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the city of New York, in the southern District of New York, in the second circuit, this fourth day of December, in the year of our Lord one thousand eight hundred and fifty-five, and of the independence of the United States, the eightieth.

J. W. NELSON, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, George W. Morton, clerk of the District Court of the United States of America for the southern District of [L. S.] New York, in the second circuit, do hereby certify, that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the city of New York, in the southern District of New York, in the second circuit, this fifteenth day of February, in the year of our Lord one thousand eight hundred and fifty-three, and of the independence of the United States, the seventy-eighth.

GEO. W. MORTON, *Clerk.*

At a stated term of the District Court of the United States of America for the southern District of New York, held at the City Hall, in the city of New York, on Saturday, the thirty-first day of December, in the year of our Lord one thousand eight hundred and fifty-three:

Present, the honorable Samuel R. Betts, District Judge.—

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD vs. THE PROCEEDS OF THE SHIP ANGELIQUE, her tackle, &c., } 11,137.

The libellant files his libel in the words and figures following, to wit:

[REC. CXXXVI., D. T., 1855.]—1

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York:

The libel of Frederick Schuchardt and Frederick C. Gebhard, of the city of New York, merchants, against the proceeds of the ship or vessel Angelique, whereof Samuel W. Jones is, or was, lately master, her tackle, apparel, furniture, &c., and against all persons intervening for their interest therein, in a cause of contract, civil maritime, alleges as follows:

First. That being the owners of the said ship called the Angelique, her tackle, apparel, furniture, &c., on or about the 7th day of May, in the year 1853, they sold, assigned, and transferred the same unto Antonio Pelletier, of the city of New York, for the price or sum of fifteen thousand dollars.

Second. That of the said price the said Antonio Pelletier paid only the sum of ten thousand dollars to these libellants, and for the balance of the said price, to wit, for the sum of five thousand dollars, he made and delivered to them his promissory note in that amount, bearing date on the above-mentioned day, payable in six months after date to his own order, and by him endorsed; and thereupon further to secure the payment of the said sum of five thousand dollars for which such note was given, he, on or about the same day, in and by a certain indenture of mortgage, bearing date on that day, mortgaged in these libellants an undivided half part or moiety of the said ship, and of her tackle, apparel, and furniture, upon the condition that if the said Antonio Pelletier, his heirs, executors, or administrators, did and should pay, or cause to be paid, unto these libellants, their executors, administrators, or assigns, the said sum of money mentioned in the said promissory note at the time therein mentioned, then such mortgage should be void; and your petitioners were empowered, in and by said mortgage, in case of default in payment of the said sum of money, to sell the said undivided half part of moiety of the said ship or vessel at public auction, and out of the proceeds of the sale thereof to retain so much as might be due upon the said promissory note and expenses, rendering the overplus, if any, to the said Antonio Pelletier, his executors, administrators, or assigns.

Third. That the said vessel is and was, at the time of the execution and delivery of said mortgage, a vessel of the United States; and that the said mortgage was, at the request of these libellants, duly recorded, pursuant to the statute in such case made and provided, on the 9th day of May, 1853, in the office of the collector of the customs of the port of New York, where such vessel was then registered, and that a copy thereof was duly filed on the 30th day of the same month, in the office of the register of the city and county of New York.

Fourth. That these libellants are now the holders and absolute owners of the said promissory note and mortgage, and that no part

of the said sum of money intended to be secured thereby has been paid.

Fifth. That the said ship has been sold under the order of this Court, and the proceeds of such sale have been paid, or are about to be paid into Court.

Sixth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this Court.

Wherefore the libellants pray that process, in due form of law, according to the course of this honorable Court in causes of admiralty and maritime jurisdiction, may issue against the proceeds of the sale of the said vessel, and that all persons claiming any interests therein may be cited to appear and answer upon oath all and singular the matters aforesaid, and that this honorable Court will be pleased to decree that one equal half part or moiety of the said proceeds shall be retained in Court until the said promissory note shall become due, and then in case of default of payment of the said promissory note, be paid to these libellants; or else that one equal half or moiety of the said proceeds be at once paid to these libellants in satisfaction, so far as the same will extend of the said mortgage, and of their costs, charges, and expenses; and that the libellants may have such other and further relief in the premises as in law and justice they may be entitled to receive.

FRED'K SCHUCHHRDT,
FRED'K C. GEBHARD.

Sworn, Sept. 8, 1853, before me,

GEO. W. MORTON,
U. S. Com'r.

Endorsed: 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c.—Libel.—G. M. Ogden, Proctor.—Filed Sept. 8th, 1853.

FOR THE SOUTHERN DISTRICT OF NEW YORK.

Filed the eighth day of September, 1853.

Stipulation for libellants' costs, entered into pursuant to the rules and practice of this Court.

Whereas, a libel was filed in this Court, on the eighth day of September, in the year of our Lord one thousand eight hundred and fifty-three, by Frederick Schuchardt and Frederick C. Gebhard, libellants, against the proceeds of the ship Angelique, her tackle, &c., now in the registry of the Court, for the reasons and causes in the said libel mentioned, and praying that ½ the said proceeds may be retained in the Court to pay the claims of the libellants, and the said libellants and Ferdinand Schuchardt, surety parties

thereto, hereby consenting and agreeing, that in case of default or contumacy on the part of the libellants or surety, execution may issue against their goods, chattels, and lands, for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is bound in the sum of two hundred and fifty dollars, conditioned that the libellants above named shall appear and answer to the cause and to interrogatories, and shall pay all such costs as shall be awarded against them by this Court, or in case of appeal, by the Appellate Court.

FRED'K SCHUCHARDT,
FRED'K C. GEBHARD,
FERD. SCHUCHARDT.

Taken and acknowledged, this eighth day of September, 1853, before me,

GEO. W. MORTON,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, ss:

Ferdinand Schuchardt, party of the above stipulation, being duly sworn, doth depose and say, that he resides in the city of New York; that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

FERD. SCHUCHARDT.

Sworn to, this eighth day of September, 1853, before me,

GEO. W. MORTON,
U. S. Commissioner.

Recorded the day of 185 .

SOUTHERN DISTRICT OF NEW YORK, ss:

The President of the United States of America, to the marshal of the Southern District of New York, greeting:

Whereas, a libel hath been filed in the District Court of the United States, for the Southern District of New York, on the eighth day of September, in the year of our Lord one thousand eight hundred and fifty-three, by Frederick Schuchardt and Frederick C. Gebhard, against one-half of the proceeds of the ship Angelique, paid into the registry of the Court, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said Court in that behalf to be made, and that all persons interested in the said one-half of the proceeds of the said ship paid into the registry of the Court may be cited, in general and special,

to answer the premises; and all proceedings being had, that the said one-half of the proceeds aforesaid may, for the causes in the said libel mentioned, by decree of the Court, [be] awarded to the libellant. You are, therefore, hereby commanded, and to give due notice to all persons claiming the same, or knowing, or having any that thing to say, why the same should not be awarded to the libellants, pursuant to the prayer of the said libel, they be and appear before the said Court, to be held in and for the Southern District of New York, on the thirteenth day of September instant, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction; otherwise, on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness, the honorable Samuel R. Betts, Judge of the said Court, at the city of New York, in the Southern District of New York, this eighth day of September, in the year of our Lord one thousand eight hundred and fifty-three, and of our independence the *eighth*.

GEORGE W. MORTON,
Clerk.

G. M. OGDEN,
Proctor for Libellants.

[Endorsed:] Vol. 11, page 137. Southern District of New York, United States District Court. Frederick Schuchardt & Frederick C. Gebhard vs. one-half of the proceeds of the ship Angelique, her tackle, &c., paid into Court. Monition ret'ble 13 Sept'r, 1853.

G. M. OGDEN,
Proctor for Libellants.

Filed Sept. 13, 1853.

In obedience to the within monition, I attached the one-half of the proceeds of the ship Angelique paid into Court therein described, on the eighth day of Sept'r, and have given due notice pursuant to order to all persons claiming the same, that this Court will, on the 13th day of September inst., (if that day should be a day of jurisdiction, if not on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

AB. J. HILLYER,
U. S. Marshal.

Dated 185 .

At a stated term of the District Court of the United States of America for the Southern District of New York, held at the City Hall, in the city of New York, on Thursday the eighth day of Sep-

tember, in the year of our Lord one thousand eight hundred and fifty-three:

Present, the honorable Samuel R. Betts, District Judge—

FREDERICK SCHUCHARDT AND FREDERICK GEBHARD
vs.
THE PROCEEDS OF THE Ship Angelique, her tackle, &c.,

The ship Angelique, her tackle, &c., having been sold under a decree of this Court, and the monies arising from the *state* thereof having been paid into the registry of the Court, and the libellants having filed their libel against one-half of the said proceeds, on motion of Gouverneur M. Ogden, esq., proctor for the libellants, it is ordered that the marshal publish the notice for all persons interested in or having claims against the said ship, or the proceeds in the registry of the Court, to appear and intervene for their interest therein, on the thirteenth day of September instant.

[Endorsed:] Vol. 11, No. 137. United States District Court for the Southern District of New York. Frederick Schuchardt, Fred'k C. Gebhard vs. the proceed of the ship Angelique.

G. M. OGDEN,
Proctor for Libellants.

Dr. Order for pub. notice.
Filed the eighth day of Sept'r, 1853.

At a stated term of the District Court of the United States of America for the Southern District of New York, held at the City Hall, in the city of New York, on Tuesday the thirteenth day of September, in the year of our Lord one thousand eight hundred and fifty-three:

Present, the honorable Samuel R. Betts, District Judge—

FREDERICK SCHUCHARDT & FREDERICK C. GEBHARD
vs.
One-half the proceeds of the SHIP ANGELIQUE, her tackle, &c., paid into Court, } 11,137.

The marshal returns on the monition one-half of the proceeds of the ship Angelique paid into Court, altered, and notice given pursuant to order. It is thereupon ordered that the several parties who have

heretofore filed libels against the ship Angelique, her tackle, &c., have one week to file their answer to the libel in the above-entitled cause.

[Endorsed:]—Vol. 11, No. 137, United States District Court for the Southern District of New York, Frederick Schuchardt et al. vs. ½ the proceeds of the ship Angelique, &c., G. M. Odgen, proctor for libell's, order for time to answer. Filed the thirteenth day of September, 1853.

To the honorable Samuel R. Betts, judge of the District Court of the United States for the Southern District of New York:

And now, Winthrop S. Babbidge and William C. Valentine, intervening for their interest in the proceeds of the sale of the ship Angelique, made by order of this honorable Court, and for answer to the libel and complaint of Frederick Schuchardt and Frederick C. Gebhard, against said proceeds, and against all persons lawfully intervening for their interest therein, alleges and articulately propounds as follows:

First. That the respondent has no knowledge, except as in said libel set forth, that said libellants were on the seventh day of May, 1853, the owners of the ship Angelique, or that on said day they sold the same to Antonio Pelletier, or that they received the sum of $10,000 therefor, or that on said day said Pelletier gave said libellants his promissory note in the sum of $5,000, being for the balance of the purchase-money from said sale, payable in six months from date, with a mortgage in one undivided moiety or half part of said ship bearing the same date, and made to secure the payment of said note, or that said mortgage was recorded on the ninth day *of said month*, of said month of May, in the collector's office of this port, or that a copy of the same was filed in the register's office of the city and county of New York, on the 30th of said month, or that said libellants now hold said mortgage, or that the same has not been paid, and therefore deny all the allegations in that behalf.

Second. That at the instance and request of said Pelletier, these respondents on or about the first day of July last, sold and delivered said Pelletier for said ship Angelique, ship and cabin stores and supplies, amounting to the sum of $279 57.

Third. That on the fourth day of August last, these respondents filed their libel with the clerk of this Court against said ship Angelique, for the amount of said stores, $279 57.

That on the 30th of said month of August, a decree was entered for said sum with costs against said ship, and the commissioners duly authorized has reported the same to be due. That a venditioni exponas was issued in said cause for the sale of said ship; but before said sale was to take place, she was sold under a prior venditioni exponas, and the proceeds of said sale have been paid into this Court.

Fourth. That these respondents claim they are entitled and own a sufficient portion of the proceeds of said sale to pay the amount due therein under said decree.

Wherefore the respondents pray that this honorable Court would be pleased to pronounce against the libel aforesaid, and to condemn the libellants in costs, and otherwise right and justice to administer in the premises.

W. S. BABBIDGE,
WILL. C. VALENTINE,
N. BLACK,
Proctor.

Sworn to by the respondent, Valentine, before me, this 20th day of Sept'r, 1853.

JOSEPH BRIDGHAM,
U. S. Comm'r.

Endorsed: 11,137 U. S. District Court. The proceeds of the ship Angelique, Winthrope S. Babbidge, William C. Valentine, claimants, ag'st Frederick Schuchardt and Frederick C. Gebhard, libellants. Claim and answer. Chas. N. Black, proctor. Filed Sept'r 20th, 1853.

To the honorable Samuel R. Betts, judge of the District Court of the United States for the Southern District of New York:

And now before this Court, come Christian A. Heyerdahl and Charles M. Hagstrom, intervening for their interest in the proceeds of the ship Angelique, and for answer to the libel and complaint of Frederick Schuchardt and Frederick C. Gebhard, allege as follows:

First. They have no knowledge as to the matters alleged in said libel, and therefore do not admit or deny the same, except that they admit the allegations as to the sale of said vessel.

Second. And these claimants further say, that in the month of last, they entered into a contract with the master and owners of said ship, whereby, in consideration of passage-money paid by the claimants, the master and owners of said ship contracted to transport these claimants from the port of New York to Australia without delay, notwithstanding which said master and owners have refused so to do, and have broken up said voyage and have allowed said vessel to be sold; and these claimants insist that by reason of the premises, they have a lien upon the said vessel and her proceeds for the said passage-money so paid by them and received by the said master and owners. That accordingly, on the 6th day of August last, these claimants filed their libel in this Court against the said ship; and such proceedings were thereupon had, that on the 30th day of August last, this Court made a decree in favor of the claimants against the said ship, her tackle, apparel, and furni-

ture. And these claimants insist, that by reason of the premises they have a lien upon said proceeds, and that they are therefore entitled to be paid their said claim out of said proceeds in Court, and that the libellants are not entitled to the order for which they pray.

Wherefore these claimants pray that the said libel be dismissed with costs to be taxed.

BENEDICT, SCOVILLE & BENEDICT,
Proct'rs for Claimants.
M. HAGSTROM.

Subscribed and sworn to this 23 day of Sept'r, 1853, before me,
GEO. W. MORTON,
U. S. Comm'r.

Endorsed: 11,137, U. S. District Court, Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique. Answer of Heyerdahl and Hagstrom. Benedict, Scoville & Benedict, proctors. Filed Sept'r 20th, 1853.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

To the Hon. Samuel R. Betts, Judge of the District Court of the United States for the Southern District of New York:

In Admiralty.

The claim and answer of Darius Farrington, of the city of New York, to the libel and complaint of Frederick Schuchardt and Frederick C. Gebhard, against the proceeds of the ship Angelique.

And thereupon, the respondent alleges and articulately propounds as follows:

First. That he has no knowledge, save from the said libel, whether the libellants were on the 7th day of May, 1853, or at any other time, owners of the said ship Angelique, nor whether they on that day sold the said ship to the said Pelletier, nor whether said Pelletier paid to the libellants the sum of ten thousand dollars or any other sum, nor whether said Pelletier gave to the libellants his note for any balance of the alleged purchase-money, nor whether said Pelletier to secure any note executed to the libellants an indenture of mortgage upon the one-half or any part of said ship, her tackle, apparel, and furniture, nor whether the said alleged *mortgaged* was recorded with the collector of the port of New York, on the 9th day of May, 1853, or on any other day, nor whether a copy of such alleged mortgage was filed with the register of the city and county of New York, on the 30th day May, 1853, or on any other day, nor

whether the libellants are the owners of such alleged mortgage; and this respondent leave the libellant to make such proof of each of the said allegations as he may be advised.

Second. That after the 7th day of May, 1853, and on or about the sixteenth day of May, 1853, and on or about the day of June, 1853, this respondent, at the instance and request of the said Pelletier, then owner of said ship, did and performed certain ship-joiners' work and labor in and upon the said ship Angelique, and furnished materials therefor, which said ship-joiners' work, labor, and materials, were necessary to render the said ship Angelique seaworthy and fit for the navigation of the high seas.

Third. That on the 29th day of July, 1853, this respondent exhibited his libel in this honorable Court, against the said ship Angelique, her tackle, apparel, and furniture, and against all persons having or claiming to have any interest therein; that process in due form of lien was issued therein to the marshal of the Southern District of New York, who attached the said ship Angelique, her tackle, apparel, and furniture, and cited all persons having or claiming to have any interest therein to appear on the return of said process; and that such proceedings were thereupon afterwards had, that, upon a reference to the clerk of this Court, it was found, and the said clerk reported to this Court, that there was due and owing to this respondent for such work, labor, and materials, the sum of five hundred and seventy dollars and four cents. And this honorable Court, on the 24th day of August, 1853, confirmed the said report of the clerk, and condemned the said ship, her tackle, apparel, and furniture, and decree the said amount due to this respondent to be paid with costs, &c.

Fourth. That a writ of venditioni exponas was duly issued upon said decree to the marshal of the Southern District of New York, who, under and by virtue thereof, on or about the 31st day of August, 1853, sold the said ship Angelique, her tackle, apparel, and furniture, for the sum of six thousand nine hundred dollars, and the proceeds of such sale have been paid into the registry of this Court by the said marshal.

Fifth. That this respondent is advised and believes, and respectfully submits to this honorable Court, that the said decree is a lien upon the proceeds of the sale of the said ship prior in order and paramount to any lien, claim, or demand of the libellants upon the said proceeds.

Sixth. That all and singular the premises are true; and in verification thereof, if denied, the respondent craves leave to refer to the deposition and other proofs to be by him exhibited in this behalf.

Wherefore this respondent prays that the said libel may be dismissed as to this respondent with costs.

D. FARRINGTON.
STEVENS & HOXIE, *Proctors.*
NATHANIEL R. HOXIE, *Advocate.*

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this 19th day of September, 1853, before me, came the within-named Darius Farrington, and made oath that he has heard read the foregoing answer subscribed by him, and knew the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief; and as to these matters, he believes it to be true.

GEO. W. MORTON,
U. S. Commissioner.

Endorsed: 11,137. U. S. District Court, Southern District of New York. The proceeds of the ship Angelique, Darius Farrington, claimant, ads. Frederick Schuchardt & Frederick C. Gebhard. Claim and answer. Stevens & Hoxie, proctors. Filed Sept'r 19th, 1853.

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York:

And now, before this honorable Court, come William Shannon and David Clark, intervening for their interest in the ship Angelique and her proceeds in Court, and for answer to the libel and complaint of Frederick Schuchardt & Frederick C. Gebhard, allege as follows:

First. They say that they have no knowledge as to the matters alleged in the said libel, and therefore do not admit or deny the same, except that they admit that said vessel has been sold, and the proceeds thereof brought into Court.

Second. And the respondents further say, that being ship-painters, they, at the request of the master and owner of said ship, furnished certain work, labor, and materials, and supplies toward the fitting and furnishing said vessel, and thereby became entitled to and had a lien upon said ship, her tackle, apparel, and furniture, for the amount of their said bill. That, thereafter, and on or about the 8th day of August, 1853, these claimants filed their libel in this Court against the said ship, her tackle, &c., to enforce their said lien; and such proceedings were thereupon had, that on the thirtieth day of August, and before the filing of the libel herein, no one appearing for said ship or the libellants, this Court made a decree in favor of these respondents, with an order of reference to ascertain the amount. And on the sixth day of September thereafter, the commissioner having reported due the libellants the sum of six hundred and fifty-five dollars, a final decree was rendered by this Court against said vessel and the proceeds thereof in favor of these respondents for the said sum of six hundred and fifty-five dollars, with their costs to be taxed.

And these respondents now insist that the libellants have no right

or title to the said fund in Court, and are not entitled to the order prayed for in said libel; and that, by reason of the premises, the respondents have a lien upon said fund, and are entitled to be paid their said decree, with costs to be taxed.

Wherefore the claimants pray that the said libel be dismissed, with costs to be taxed.

BENEDICT, SCOVILLE & BENEDICT,
Proctors.

his
WILLIAM X SHANNON.
mark.

Sworn to, this 29th day of Sept., 1853, before me,
JOSEPH BRIDGHAM,
U. S. Com'r.

Endorsed: 11,137. U. S. District Court. Frederick Schurchardt and Frederick C. Gebhard vs. The proceeds of the ship Angelique. Answer of Shannon & Clark. Benedict, Scoville & Benedict, Proctors.—Filed Sept. 20, 1853.

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York.

The answer of the Allaire Works, of the city of New York, for their interest for the proceeds of the ship or vessel called the Angelique, whereof Samuel D. Jones is, or was, lately master, her tackle, apparel, and furniture, to the libel of Frederick Schurchardt or Frederick C. Gebhard, of the city of New York, merchants, answer and allege as follows:

First. That the respondents are ignorant of the matters contained in the first, second, third, fourth, and sixth articles of the said libel, and therefore deny the truth of the same.

Second. These respondents admit that the said ship has been sold under the order of this Court, and the proceeds of such sale have been paid into this Court.

Third. That on the 27th day of July, 1853, these respondents having a claim against the said ship Angelique, her tackle, apparel, and furniture, for materials furnished and labor done upon said ship, filed their libel in this Court and procured the process of attachment against said ship, her apparel, tackle and furniture; under which attachment the said ship, her tackle, apparel, and furniture was attached on that day by the marshal of the southern District of New York; and the respondents have duly established their lien upon said ship by a reference, under the order of this Court, in the sum of six hundred and fifty-nine dollars and thirty-six cents.

Fourth. That these respondents claim and insist, that the materials and labor so furnished and performed, and the lien so acquired

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by your respondents, by virtue of the said libel and process and attachment of this Court, are a prior lien to any lien as the said libellants upon the said fund and proceeds of the sale of the said ship Angelique, her tackle, apparel, and furniture, and are entitled to be first paid out of the same. Wherefore these respondents pray that this honorable Court would be pleased to pronounce against the libellants aforesaid, and to condemn the said libellants in costs, and otherwise law and justice to administer in the premises.

JOHN VAN VLEEK,
Proctor for Respond'ts.
CHAS. L. BENEDICT,
Advocate.
JOHN BREASTED,
Treasurer Allaire's Works.

Sworn to before me, this 20th day of Sept., 1853.
GEO. W. MORTON,
U. S. Com'r.

Endorsed: 11,137. U. S. District Court, southern District, N. Y. Frederick Schuchardt and Frederick C. Gebhard vs. ship Angelique, &c. Answer of Allaire Works. Filed Sept. 20th, 1853. John Van Vleek, Proctor, 39 Wall.

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York:

The replication of Frederick Schuchardt and Frederick C. Gebhard, libellants, against the proceeds of the ship or vessel called the Angelique, whereof Samuel D. Jones is, or was, lately master, to the answer of William Shannon and David Clark, of the city of New York, intervening for their interest, that they, the said libellants, will aver, maintain, and prove their libel to be true, certain, and sufficient; and that the answer of the said William Shannon and David Clark, of the city of New York, is uncertain, untrue, and insufficient: and they pray, as in and by their said libel they have have already prayed.

GOUV. M. OGDEN,
Proctor for Libellants.

Endorsed: 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Replication to answer of William Shannon and David Clark. G. M. Ogden, proctor. Filed Sept. 27th, 1853.

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York:

The replication of Frederick Schuchardt and Frederick C. Geb-

hard, libellants, against the proceeds of the ship or vessel called the Angelique, whereof Samuel D. Jones is, or was, lately master, to the answer of Winthrop S. Babbidge and William C. Valentine, of the city of New York, intervening for their interest, alleges that they, the said libellants, will aver, maintain, and prove their libel to be true, certain, and sufficient; and that the answer of the said Winthrop S. Babbidge and William C. Valentine, of the city of New York, is uncertain, untrue, and insufficient; and they pray, as in and by their said libel they have already prayed.

GOU. M. ODGEN,
Proctor for Libellants.

Endorsed: 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Replication to answer of Winthrop S. Babbidge and William C. Valentine. G. M. Ogden, proctor. Filed Sept. 27th, 1853.

In Admiralty.

To the honorable Samuel R. Betts, Judge of the District Court of the United States for the southern District of New York:

The replication of Frederick Schuchardt and Frederick C. Gebhard, libellants, against the proceeds of the ship Angelique, whereof Samuel D. Jones is, or was, lately master, to the answer of Christian Heyerdahl and Charles M. Hagstrom, of the city of New York, intervening for their interest, alleges that they will aver, maintain, and prove their libel and complaint to be true, certain, sufficient in the law to be answered unto; and that the said answer of Christian Hayerdahl and Charles M. Hagstrom, of the city of New York; and they pray, as in and by their said libel they have already prayed.

GOUV. M. ODGEN,
Proctor for Libellant.

[Endorsed:] 11,137. U. S. District Court. Frederick Schuchardt, Frederick B. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Replication to answer of Christian Heyerdahl and Charles M. Hagstrom. G. M. Odgen, proctor. Filed Sept. 27th, 1853.

In Admiralty.

To the honorable Samuel R. Betts, judge of the District Court of the United States for the southern District of New York:

The replication of Frederick Schuchardt and Frederick C. Gebhard, libellants, against the proceeds of the ship or vessel called the

Angelique, whereof Samuel D. Jones is or was lately master, to the answer of Darius Farrington, of the city of New York, intervening for their interest, alleges that they, the said libellants, will aver, maintain, and prove their libel to be true, certain, and sufficient, and that the answer of the said Darius Farrington, of the city of New York, is uncertain, untrue, and insufficient, and they pray as in and by their said libel they have already prayed.

GOUV. M. ODGEN,
Proctor for Libellants.

[Endorsed:] 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Replication to answer of Darius Farrington. G. M. Ogden, proctor. Filed Sept'r 27th, 1853.

In Admiralty.

To the honorable Samuel R. Betts, judge of the District Court of the United States for the Southern District of New York:

The replication of Frederick Schuchardt and Frederick C. Gebhard, libellants, against the proceeds of the ship or vessel called the Angelique, whereof Samuel D. Jones is or was lately master, to the answer of the Allaire Works, of the city of New York, intervening for their interest, alleges that they, the said libellants, will aver, maintain, and prove their libel to be true certain, sufficient in the law to be answered unto, and that the said answer of the said Allaire Works, of the city of New York, is uncertain, untrue, and insufficient; and they pray as in and by their said libel they have already prayed.

GOUV. M. ODGEN,
Proctor for Libellants.

[Endorsed:] 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Replication to answer of the Allaire Works. G. M. Ogden, proctor. Filed Sept'r 27th, 1853.

At a stated term of the District Court of the United States of America for the Southern District of New York, held at the City Hall, in the city of New York, on Wednesday, the second day of November, in the year of our Lord one thousand eight hundred and fifty-three:

Present, the honorable Samuel R. Betts, district judge—

FREDERICK SCUCHARDT et al.
vs.
The proceeds of the SHIP ANGELIQUE, her tackle, &c., } 11,137.

On motion of G. M. Ogden, esq., proctor for the libellants, it is

ordered that the above suit be placed on the calendar for the present term of this Court.

[Endorsed:] Vol. 11, No. 137. United States District Court for the Southern District of New York. Frederick Schuchardt et al. vs. ½ the proceeds of the ship Angelique, &c. G. M. Ogden, proctor for libl'ts. Order to put cause on calendar. Filed the second day of November, 1853.

THURSDAY, *Nov.* 16, 1853.

Messrs. Ogden & Wells, for lib'lt, Stevens & Hoxie and Benedict and others for cl'ts.

FREDERICK SCHUCHARDT et al.
vs.
One-half the proceeds of the SHIP ANGELIQUE, Darius Farrington, Cannon and ors., Babbage and Valentine, the Allaire Works, &c., claimants.

Proofs for Libl'ts.

Antonio Pelletier, (sworn,) (witness objected to as interested; question reserved.)

Witness was owner of ship Angelique; bought her of libellants for $15,000—$5,000 cash, $5,000 in satisfactory negotiable paper, remaining $5,000 by witness' note at 6 months, secured by mortgage of part of ship; produces bill of sale dated May 5, 1853, (registered C. H., 7th May;) certificate bill of sale delivered witness the day mortgage was registered. Witness paid $2,000 cash, and witness' note for $3,000 with a collateral security in libellants hands, (state bonds,) and interest on note for 1st $5,000, $5,000 paid by Greene's note, endorsed by witness, and remaining $5,000, witness' note, endorsed by himself; mortgage on one-½ the ship; executed and delivered the mortgage 7th May, same time bill of sale was made; papers were signed in the custom house—note May 7, ( ) registered 9 May, C. H., filed 30 May, city register; note has not been paid.

Cross-examined: Mortgage and bill of sale all one transaction. Witness never had any other conveyance of ship. She did not leave port on witness' voyage, nor till after marshal's sale; then she went to same destination. Witness was in possession of ship after sale to him, until marshal took charge of her under process of this Court, though an injunction was put on her previously. Witness was the actual owner of ship, till taken from him. These libellants had no possession or control at all of the ship. Witness did not see them in fact but once.

Gilbert Russell, (sworn,) is register at C. H. in N. Y. of bills of

sale and mortgages of vessels. The old register of ship is dated 31 May, 1847, to libellants; whole title in them; has compared copy in Court with records in C. H.; it is a correct copy. The register was in force May 9, 1853; had been new change of registry; certificate or bill of sale dated of day it was rec'd for recording. Mortgage recorded 7th May.

For Claimants.

Joseph Thompson, (sworn,) conducted sale of ship as dep'y marshal under execution of Court in case of Farrington, (amount produced;) sale price $6,900; a person from office of lib'ts attended the sale on their behalf; after terms of sale were read, they stated they had a mortgage of $5,000 on the vessel, and objected to the sale; sale was August 31, at Merchants' Exchange; several days elapsed before the purchase-money was paid in; saw some of parties in suits against her and proctors at the sale.

All documents in the cause considered as in ———

THURSDAY, *November* 17*th*, continued.

Mr. Wells argues for lib'ts.
Mr. E. C. Benedict " resp'dts.
Mr. Hoxie " "
Curia advisare vult.

At a stated term of the District Court of the United States of America for the southern District of New York, held at the City Hall, in the city of New York, on Saturday, the 31st day of December, in the year of our Lord one thousand eight hundred and fifty-three—

Present: The honorable Samuel R. Betts, District Judge:

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD
vs.
THE PROCEEDS OF ONE-HALF the Ship Angelique, the tackle, &c., } 11,137.

This case having been heard on the pleadings of proofs and argued by the advocates for the respective parties, and due deliberation being had in the premises: It is now ordered, adjudged, and decreed by the Court, that the libel filed by the libellants, Schuchardt and Gebhard against the proceeds of the ship Angelique, be dismissed with costs to be taxed; and it is further ordered, that unless an appeal be taken from this decree within the time prescribed by the rules of this Court, the lien-creditors who have instituted actions against the said ship or her proceeds, be paid out of the fund in

Court in the order in which their attachments were levied respectively, and where no attachment was served in suit under prosecution, then in the order in which the actions were instituted.

[Endorsed:] Vol. 11, No. 137. United States District Court for the southern District of New York. Frederick Schuchardt, et al. vs. ½ the proceeds of the ship Angelique, &c. G. M. Ogden, proctor for libts. Final decree dismissing libel. Filed the thirty-first day of December, 1853.

District Court of the United States for the southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD
vs.
THE PROCEEDS OF THE SHIP Angelique, her tackle, &c.

Please to take notice that the libellants appeal from the final decree of the Court in this cause.

Dated January 7, 1854.

Yours, &c.
GOUV. M. OGDEN,
Proctor for Libellants.

To George W. Morton, esq., clerk; Benedict, Scoville & Benedict, esqrs., proctors for def'ts, Heyardahl & Hagstrom, and for def'ts, Shannon & Clark; Stevens & Hoxie, esqrs., proctors for def'ts, Farrington; Charles N. Black, esq., proctor for def'ts, Babbidge & Valentine; J. Van Vleek, esq., proctor for def'ts, the Allaire Works.

Endorsed: 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique. G. M. Ogden, pr. for lib't.—To Geo. Morton, esq. Notice of appeal. Filed Jan'y 9, 1854.

District Court of the United States for the southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD
vs.
THE PROCEEDS OF THE SHIP ANGELIQUE.

Please to take notice, that the proposed sureties for the appellants in this cause are Ferdinand Schuchardt, merchant, residing at New York Hotel, city of New York, doing business at number ninety-four, in Liberty street, in said city, and John M. C. Frolich,

merchant, residing at number sixty-eight, in Pacific street, in the city of Brooklyn, Long Island, doing business at number ninety-four, in Liberty street, in the city of New York, and that they will execute the stipulations on the appeal in this cause, before George W. Morton, esq., the clerk of this Court, at his office, in the City Hall of the city of New York, on the sixteenth day of January instant, at 10 o'clock in the forenoon of that day, and at the same time justify as such sureties.

Dated 12 January, 1854. Yours, &c.

GOUV. M. OGDEN,
Proctor for Libell'ts.

To Benedict, Scoville & Benedict, proctors for def'ts, Heyerdahl & Hagstrom, and for def'ts, Shannon & Clark; Stevens & Hoxie, esq'rs, proctors for def'ts, Farrington; Charles N. Black, esq., proctors for def't Babbidge & Valentine; J. Van Vleek, esq., proctor for the def'ts, the Allaire Works.

Endorsed: 11,137. District Court of the United States. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Notice of justification of sureties. Gouv. M. Ogden, proctor for libellants.

We admit due service of a copy of within notice.

BENEDICT, SCOVILLE, & BENEDICT,
For Heyerdahl and Hagstrom, & Shannon & Clarke.
CHARLES N. BLACK,
P'r for Babbidge & Valentine.
JOHN VAN VLEEK,
For Allaire Works.
STEVENS & HOXIE,
Proctor for D. Farrington.

Filed Jan'y 16, 1854.

DISTRICT COURT OF THE UNITED STATES OF AMERICA,
For the Sonthern District of New York, in the Second Circuit.

Bond for costs.

FREDERICK SCHUCHARDT AND FREDERICK C. GEBHARD, appellants,
vs.
The proceeds of the SHIP ANGELIQUE, her tackle, &c., HEYERDAHL & HAGSTROM, claimants.

Know all men by these presents, that we, Ferdinand Schuchardt, John M. C. Frolich, and Frederick Gebhard, are held and firmly

bound unto the above-named claimants and appellees, in the sum of five hundred dollars to be paid to the said appellees, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty-four.

Whereas, the above-named appellants have prosecuted an appeal to the Circuit Court of the United States for the Southern District of New York, in the second circuit, to reverse the decree rendered in the above-entitled suit by the Judge of the District Court of the United States for the Southern District of New York:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

FREDERICK SCHUCHARDT, [L. S.]
FER'ND SCHUCHARDT, [L. S.]
J'N C. FROLICH, [L. S.]

Sealed and delivered, and taken and acknowledged, this 16th day of January, 1854, before me,

GEO. W. MORTON,
U. S. Comm'r.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Ferdinand Schuchardt, and John M. C. Frolich, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of one thousand dollars over and above all his just debts and liabilties.

FER. SCHUCHARDT.
JNO. C. FROLICH.

Sworn to this sixteenth day of January, A. D. 1854, before me.

I approve of the sureties to the within bond.

SAM. R. BETTS.

Jan'y 16, 1854.

[Endorsed:] Vol. 11, No. 137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Bond for costs on in appeal. Gou'r M. Ogden, appellants' proctor. Filed this 16th day of January, 1854.

CIRCUIT COURT OF THE UNITED STATES OF AMERICA,
For the Southern District of New York, in the Second Circuit.

Bond for costs.

FREDERICK SCHUCHARDT & FREDERICK C. GEBHARD
vs.
The proceeds of the SHIP ANGELIQUE, her tackle, &c., Shannon & Clark & o'rs, claimants.

Know all men by these presents, that we, Ferdinand Schuchardt, John M. C. Frolich, and Frederick Schuchardt are held and firmly bound unto the above-named claimants and appellees in the sum of five hundred dollars, to be paid to the said appellees, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty-four.

Whereas, the above-named appellants have prosecuted an appeal to the Circuit Court of the United States for the Southern District of New York, in the second circuit, to reverse the decree rendered in the above-entitled suit by the Judge of the District Court of the United States for the Southern District of New York:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

ERED'K SCHUCHARDT, [L. S.]
FERD. SCHUCHARDT, [L. S.]
J. M. C. FROLICH. [L. S.]

Sealed and delivered, and taken and acknowledged, this 16th day of January, 1854, before me,

GEO. W. MORTON,
U. S. Commissioner.

[Endorsed:] Vol. 11, No. 137, U. S. District Court. Frederick Schuchardt & Frederick C. Gebhard vs. the proceeds of the ship Angelique, her tackle, &c. Bond for cost on in appeal, Gouv. M. Ogden, appellants' proctor. Filed this 16 day of January, 1854.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Ferdinand Schuchardt and John M. C. Frolich, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

FERD. SCHUCHARDT,
J. M. C. FROLICH.

Sworn to, this sixteenth day of January, A. D. 1854, before me,
GEO. W. MORTON,
U. S. Com.

I approve of the sureties to the within bond.
SAM. R. BETTS.
Jan'y 16, 1854.

DISTRICT COURT OF THE UNITED STATES,
For the Southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD
vs.
THE PROCEEDS OF THE SHIP Angelique, her tackle, &c.

Please to take notice, that the libellants appeal from the final decree of the Court in this cause.

Yours, &c.,
G. M. OGDEN,
Proctor for Libellants.

Dated 7th Jan'y, 1854.

To Geo. W. Morton, esq., clerk; Benedict, Scoville, & Benedict, esq., proctors for def'ts, Heyerdahl & Hagstrom; and for def'ts, Shannon & Clark; Stevens & Hoxie, esqs., proctors for def'ts Farrington; Cha's N. Black, esq., proctor for def'ts Babbidge & Valentine; J. Van Vleek, esq., proctor for def'ts, the Allaire Works.

Endorsed: District Court. Frederick Schuchardt & Frederick C. Gebhard vs. the proceeds of the ship Anglique, her tackle, &c. Notice of appeal; G. M. Ogden, proctor for libellants.

We admit due service of a copy of within notice.
STEVENS & HOXIE,
Proct'rs for def't Farrington.

CIRCUIT COURT OF THE UNITED STATES,
For the Southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARDT, appellants,
vs.
The proceeds of the ship ANGELIQUE, her tackle, &c.

CITY AND COUNTY OF NEW YORK, *ss:*

Alexander H. Smith, clerk in the office of the proctor for the libellants and appellants, being duly sworn, says, that on the 9th day of January, 1854, between the hours of 9 a. m. and 4 p. m., he served a notice, of which the foregoing is a copy, on George W. Morton, esq., clerk of the District Court of the United States for the Southern District of New York, by handing the same to him personally, and on Benedict, Scoville, & Benedict, esq'rs, proctors for claimants Heyerdahl & Hagstrom, and Shannon & Clark; on Charles A. Black, esq., proctor for claimants, Babbidge & Valentine; and on J. Van Vleek, esq., proctor for the claimants, the Allaire Works, by handing the same to persons respectively in charge of the offices of the said proctors; and deponent further says, that on the 16th day of January, 1854, between the hours of 9 a. m. and 4 p. m., he served a copy of the appeal in this on Mr. Benedict, one of the proctors for the said claimants, Heyerdahl & others, on the said Mr. Black, proctor *a* aforesaid, Mr. Van Vleek, proctor as aforesaid, and Mr. Stevens, one of the said proctors, Stevens & Hoxie—all of the said services being personal.

ALEXANDER H. SMITH.

Sworn before me, this 17th day of January, 1854.
GEO. W. MORTON,
U. S. Comm'r.

Endorsed: 11,137. Circuit Court of the United States for the Southern District of New York. Frederick Schuchardt and Frederick C. Gebhard, appellants, ag'st the proceeds of the ship Angelique, her tackle, &c. Proof of service of appeal and notice of appeal. G. M. Ogden, proctor. Filed Jan'y 17, 1854.

CIRCUIT COURT OF THE UNITED STATES,
For the Southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD, appellants,
ag'st
The proceeds of the SHIP ANGELIQUE, her tackle, &c.

To the honorable the Circuit Court of the United States for the Southern District of New York:

The appeal of the above-named appellants respectfully showeth, that on or about the eighth day of September, in the year one thousand eight hundred and fifty-three, they filed their libel in the District Court of the United States for the Southern District of New York, against the proceeds of the ship Angelique, her tackle, &c., being in Court, praying among other things, that one equal half part or moiety thereof (amounting to more than fifty dollars) should be retained in Court, until a promissory note in the libel mentioned (to secure the payment of which the said ship, her tackle, &c., were mortgaged to the libellants) should become due, and then in case of default of the payment of such promissory note be paid to the said libellants, or else that one equal half part or moiety of the said proceeds be at once paid to the libellants in satisfaction, so far as the same would extend, of the said mortgage and of their costs.

That process issued out of said Court having been duly served, Darius Farrington, Winthrop S. Babbidge, William C. Valentine, Christian A. Heyerdahl, Charles M. Hagstrom, William Shannon, David Clark, and the Allaire Works of the city of New York, intervening for their interest, did respectively, on or about the twentieth day of September, in the year one thousand eight hundred and fifty-three, file their separate answers and claims to the said libel in the said District Court, praying that it be dismissed with their costs in that behalf, or by reference to the said libel and the said claims and answers may more fully appear.

That the said cause came on to be heard before the honorable Samuel R. Betts, judge of the said District Court, on or about the sixteenth and seventeenth days of November, A. D. 1853, upon the testimony and proofs adduced by the respective parties, and the said judge having advised thereon on the thirty-first day of December, in the year 1853, made a decree or sentence in said cause; whereby it was among other things sentenced and decreed that the said libel be dismissed with costs to be taxed. And these appellants are advised and insist, that the said decree is erroneous, inasmuch as the libellants were entitled to the payment of the said mortgage out of the equal half part of the said proceeds.

And these appellants for these and other reasons appeal from the whole of said decree in favor of the said claimants to the next Circuit Court to be held in the said district, (and on the said appeal they intend to have the said cause heard anew, only on the same pleadings and the same proofs,) and they pray that the said decree and every part thereof may be reversed with costs, or such other decree thereupon be made as to the said Circuit Court shall seem just, and that the said appellees be condemned to pay to these appellants their costs and damages in the premises.

And they pray that the record and proceedings may be returned to the said Circuit Court.

GOUV. M. OGDEN,
Proctor for Appellants.

Endorsed: 11,137. Circuit Court of the United States Southern District of New York, Frederick Schuchardt and Frederick C. Gebhard, appellants, ag'st the proceeds of the ship Angelique, her tackle, &c. Appeal. G. M. Ogden, proctor. Filed Jan'y 17, 1854.

DISTRICT COURT OF THE UNITED STATES,
For the Southern District of New York.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD, appellants,
vs.
The proceeds of the SHIP ANGELIQUE, her tackle, &c.

To George W. Morton, esq., clerk of the District Court of the U. S. for the Southern District of N. Y.:

SIR: Please to return to the Circuit Court of the United States for this district the appeal and notice of appeal in this cause, and the proof of the service of the same, with the necessary documents and proceedings.

Dated 17 January, 1854.

Yours, &c.,
GOUV. M. OGDEN,
Proctor for Appellants.

Endorsed: 11,137. U. S. District Court. Frederick Schuchardt and Frederick C. Gebhard, appellants, vs. the proceeds of the ship Angelique. G. M. Ogden, pr., to George W. Morton, esq., clerk. Filed Jan'y 17, 1854.

At a special term of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, held at the City Hall, in the city of New York, on the twenty-ninth day of September, in the year of our Lord one thousand eight hundred and fifty-five:

Present, the honorable Samuel Nelson, an Associate Justice of the Supreme Court of the United States—

FREDERICK SCHUCHARDT et al.
vs.
One-half of the proceeds of the SHIP "ANGELIQUE,"

This cause coming on to be heard on the allegations and proofs,

and argued by the advocates for the respective parties and due deliberation being had:

It is now ordered, adjudged, and decreed, that the decree of the District Court herein be in all affirmed, and that the libel of the said libellants and appellants be and the same is hereby dismissed; and it is further ordered the claimants herein recover of the said libellants their costs in this Court and in the District Court to be taxed. And it is further ordered, that the stipulators for libellants' costs and on the appeal herein pay into the Court the amount of their stipulations; and it is further ordered that the clerk of this Court distribute the proceeds in satisfaction of this decree.

(Filed September 29, 1855.)

U. S. CIRCUIT COURT.

Sep'r 29, 1855.

FREDERICK SCHUCHARDT et al.
vs.
One-half the proceeds of the SHIP ANGELIQUE.

This cause coming on to be heard upon the appeal, and it appearing that the fund attached herein has never been transferred to the registry of this Court, on motion of F. B. Cutting, esqr., advocate for the libellants, ordered that one-half the proceeds of the ship Angelique; attached in this cause be forthwith transferred from the District Court to this Court; and it is further ordered that the clerk of this Court invest the said one-half proceeds of the said ship in the United States Trust Company, according to the practice of this Court.

(Filed September 29, 1855.)

SUPREME COURT OF THE UNITED STATES.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD, libellants and appellants,
vs.
The proceeds of the SHIP ANGELIQUE, her tackle, &c., Daniel Farrington and others, claimants and appellees.

The appeal of the above-named libellants and appellants respectfully showeth, that on or about the 8th day of September, 1853, they filed their libel in the District Court of the United States for the Southern District of New York against the proceeds of the

ship Angelique, her tackle, &c., being in Court, praying, among other things, the one equal half part or moiety thereof, amounting to more than two thousand dollars, should be retained in Court, until a promissory note in the libel mentioned, to secure the payment of which the said ship, her tackle, &c., were mortgaged to the libellants, should become due, and then, in case of default of the payment of such promissory note, be paid to the libellants; or else that one equal half part or moiety of the said proceeds be paid to the libellants in satisfaction of the said mortgage and of their costs, so far as the same would extend.

That process having been duly issued, Darius Farrington, Winthrop S. Babbidge, William E. Valentine, Christian A. Heyerdahl, Charles M. Hagstrom, William Shannon, David Clark, and the Allaire Works of the city of New York, intervening for their interest, did respectively, on or about the 20th day of September, 1853, file their separate answers and claims to the said libel, praying that it be dismissed with costs; to which answers and claims the said libellants duly replied, as by reference to said libel and the said claims and answers and replication will more fully and at large appear.

That such proceedings were afterwards had in such cause, that on the 31st day of December, 1853, a final decree was made in said cause by said District Court, dismissing said libel with costs.

That after such final decree, the said libellants duly appealed therefrom to the Circuit Court of the United States for the Southern District of New York, and the said cause was removed thereby into the said Circuit Court and there tried anew; and such proceedings were had in the said Circuit Court, that afterwards, and on the first day of October, 1855, the said Circuit made a final decree in the said cause, affirming the said decree of the said District Court with costs, which said decree of the said Circuit Court is, as the appellants are advised, erroneous, and ought to be reversed.

Wherefore, these appellants appeal from the whole of said decree of said Circuit Court to the Supreme Court of the United States, and respectfully pray that the said decree of the said Circuit Court and the libel, answers, claims, pleadings, depositions, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the Circuit Court and every part thereof may be reversed, and a decree made according to the prayer of said libel, with costs, or such other decree as to the said Supreme Court shall seem just.

Dated N. Y., October 1st, 1855.

ALEX'R HAMILTON, JR.,
Proctor for Appellants.

(Filed October 6, 1855.)

CIRCUIT COURT OF THE UNITED STATES OF AMERICA,
For the Southern District of New York, in the Second Circuit.

Bond for costs.

FREDERICK SCHUCHARDT and FREDERICK C. GEBHARD, libellants and appellants,
vs.
One-half of the proceeds of the SHIP ANGELIQUE, *Davis* Farrington, claimants and appellees.

Know all men by these presents, that we, Leipold Beirworth and Alfred Ogden, are held and firmly bound unto the above-named claimants and appellees in the sum of three thousand three hundred dollars, to be paid to the said appellee, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the fifth day of October, in the year of our Lord one thousand eight hundred and fifty-five.

Whereas the above-named libellants and appellants have prosecuted an appeal to the Supreme Court of the United States, to be held at Washington, in the District of Columbia, to reverse the decree rendered in the above-entitled suit by the judge of the Circuit Court of the United States for the Southern District of New York:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute an appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

LEIPOLD BEIRWORTH, [L. S.]
ALFRED OGDEN, [L. S.]

Sealed and delivered, and taken and acknowledged, this 5th day of October, 1855, before me,

GEO. W. MORRELL,
U. S. Commissioner South. Dist. New York.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Leipold Beirworth and Alfred Ogden, being severally duly sworn, do depose and say, each for himself, that he is worth the sum of three thousand three hundred dollars over and above all his just debts and liabilities.

LEIPOLD BEIRWORTH,
ALFRED OGDEN.

Sworn to this fifth day of October, A. D. 1855, before me,
GEO. W. MORRELL,
U. S. Commissioner South. Dist. New York.

I approve the sufficiency of the sureties to the within bond. Oct. 6, 1855. SAM'L R. BETTS.

[Endorsed:] Vol. Page . U. S. Circuit Court. Frederick Schuchardt and Frederick Gebhard vs. one-half the proceeds of the ship Angelique. Bond for costs on appeal to the Supreme Court of the United States. Alex. Hamilton, appellants' proctor. Filed this 6 day of October, 1855.

By the honorable Samuel R. Betts, one of the judges of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit:

To Winthrop S. Babbidge and William C. Valentine; Christian A. Heyerdahl and Charles M. Hagstrom; Darius Farrington, William Shannon, and David Clark; and the Allaire Works, of the city of New York, claimants of the proceeds of the ship Angelique, her tackle, &c.:

Whereas, Frederick Schuchardt and Frederick C. Gebhard have lately appealed to the Supreme Court of the United States from a decree lately rendered in the Circuit Court of the United States for the Southern District of New York, in the Second Circuit, made in favor of you—the said Winthrop S. Babbidge and William C. Valentine, Christian A. Heyerdahl and Charles M. Hagstrom, Darius Farrington, William Shannon and David Clark, and the Allaire Works of the city of New York, claimants of the proceeds of the ship Angelique, her tackle, &c.—against the said Frederick Schuchardt and Frederick C. Gebhard, and have filed the security required by law:—You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be due in the premises.

Given under my hand and seal at the city of New York, in the Southern District of New York, in the Second Circuit, the sixth day of October, in the year of our Lord one thousand eight hundred and fifty-five, and of the independence of the United States the eightieth. (Signed) SAM'L R. BETTS.

We hereby respectfully admit due service of a copy of the within citation. October 8th, 1855.

JOHN VAN VLECK,
Pro. for Allaire Works.
BENEDICT, SCOVILLE & BENEDICT,
CHAS. N. BLACK,
Pro. for Babbidge and Valentine.
STEVENS & HOXIE,
Pro's for D. Farrington.

(Filed October 10, 1855.)

(Vessel.)—[1.]

By the Orient Mutual Insurance Company.

[Warranted not to abandon in case of capture, seizure, or detention, until after condemnation of the property insured, nor until ninety days after notice of said condemnation is given to the company. Also, warranted not to abandon in case of blockade, and free from any expense in consequence of capture, seizure, detention, or blockade; but in the event of blockade to be at liberty to proceed to an open port and there end the voyage—any stipulations in this policy to the contrary notwithstanding.]

Schuchardt and Gebhard, on account of themselves, loss, if any, to be paid to them, do make insurance, and cause to be insured, lost or not lost, at and from the first day of February, 1854, at noon, at Melbourne, until the first day of February, against total lost only. No claim under this policy unless there is an actual or technical total loss of the ship policy, proof of interest, each passage subject to separate average upon the body, tackle, apparel, and other furniture of the good ship called the Angelique, whereof is master for this present voyage, or whoever else shall go for master in the said vessel, or by whatever other name or names the said vessel is or shall be named or called.

Beginning the adventures upon the said vessel, tackle, apparel, &c., at and from as aforesaid, and so shall continue and endure until the said vessel be safely arrived at as aforesaid, and until she be moored twenty and four hours in good safety. And it shall and may be lawful for the said vessel in her voyage to proceed and sail to, touch and stay at, any ports or places if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. The said vessel, tackle, &c., hereby insured, are valued on their interest mortgages of one-half of ship, said interest valued at the sum insured without any further account to be given by the assured to the assurers, or any of them for the same.

Touching the adventures and perils which the said Orient Mutual Insurance Company is contented to bear, and takes upon itself in this voyage, they are of the *seas, men-of-war, fires, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainments of all kings, princes, or people, of what nation, condition, or quality soever, barratry of the master and mariners,* and all other perils, losses, and misfortunes that have or shall come to the hurt, detriment, or damage of the said vessel, or any part thereof. And in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, their factors, servants, and assigns, to sue, labor, and travel for in and about the defence, safeguard, and recovery of the said vessel, or any part thereof, without prejudice to this insurance; to the charges whereof the said insurance company will contribute

according to the rate and quantity of the sum herein insured; nor shall the acts of the insured or insurers, in recovering, saving, and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of an abandonment, having been paid the consideration for this insurance by the assured or their assigns, at and after the rate of eight per cent.

[Premium, $480; policy, $1 25—$481 25.]

And in case of loss, such loss to be paid in thirty days after proof of loss and proof of interest in the said (the amount of the note given for the premium, if unpaid, being first deducted,) but no partial loss or particular average shall in any case be paid, unless amounting to *five per cent.* Provided, always, and it is hereby further agreed, that if the said assured shall have made any other assurance upon the premises aforesaid, prior in date to this policy, then the said Orient Mutual Insurance Company shall be answerable only for so much as the amount of such prior assurance may be deficient towards fully covering the premises hereby assured; and the said Orient Mutual Insurance Company shall return the premium upon so much of the sum by them assured as they shall be by such prior assurance exonerated from. And in case of any insurance upon the said premises, subsequent in date to this policy, the said Orient Mutual Insurance Company shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent assurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent assurance had been made. It is also agreed, that the property be warranted by the assured free from any charge, damage, or loss which may arise in consequence of a seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war. And it is further agreed, that in case a total loss shall be claimed, for or on account of any damage or charge to the said vessel, the only basis of ascertaining her value shall be her valuation in this policy; and if not valued herein, then her actual value at the time of the inception of this risk at the port to which she then belonged. And lastly, it is agreed, that if the above vessel, upon a regular survey, should thereby be declared unseaworthy, by reason of her being unsound or rotten, or incapable of prosecuting her voyage on account of her being unsound or rotten, then the assurers shall not be bound to pay their subscription on this policy.

If the voyage aforesaid shall have been begun and shall have terminated before the date of this policy, then there shall be no return of premium on account of such termination of the voyage.

In all cases of return of premium, in whole or in part, *one-half per cent.* upon the sum insured is to be retained by the assurers.

In witness whereof, the president or vice president of the said

Orient Mutual Insurance Company hath hereunto subscribed his name and the sum insured, and caused the same to be attested by their secretary in New York, the third day of June, one thousand eight hundred and fifty-four.

($6,000.) Six thousand dollars.

CONRAD W. FABER,
President.
CHARLES IRWING,
Secretary.

[Endorsed:] Angelique, June 3d, 1854. Orient Mutual Insurance Company. Ship Angelique, 1 year from February 1st, 1854. Vessel. Schuchardt & Gebhard. $6,000 at 8 per cent., $480; policy, $1 25—$481 25. Pay six thousand dollars for total loss, and cancel $6,000. Feb'ry 12, 1855. A. *Green.* Record A, folio 265. $\frac{119}{11}$.

U. S. CIRCUIT COURT.

The proceeds of the SHIP ANGELIQUE
ads.
FREDERICK SCHUCHARDT et al.

It is hereby admitted on the part of the libellants, that the interest of the libellants in the one-half of the ship Angelique mentioned in the pleadings was fully insured by the libellants in the Orient Mutual Insurance Company of New York, by policy on their interest as mortgages of one-half of the ship against total loss only, policy, proof of interest.

That since the decree of the District Court herein, the said ship has been lost by the perils of the sea; that the libellants thereupon furnish to said company the usual proofs of loss; and on the 12th day of February, 1855, the company admitted its liability for the said loss, and subsequently the said Schuchardt & Gebhard applied for and received the full amount of the sum insured, to wit: six thousand dollars; and by agreement with the said company, this suit is now prosecuted for the benefit of the said insurance company alone.

The said policy of insurance or a copy thereof may be referred to as a part of this admission.

New York, May 21st, 1855.

GOUV. M. OGDEN,
Proctor for Libellants.

Approved: F. B. CUTTING.
(Filed Oct. 10, 1855.)

UNITED STATES OF AMERICA,
Southern District of New York, ss:

[SEAL.] I, Kenneth G. White, clerk of the U. S. circuit court for the southern district of New York, do hereby certify that the printed copy hereto annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said circuit court to be hereunto affixed, at the city of New York, in the southern district of New York, this sixth day of December, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the said United States the eighty-first.

KENNETH G. WHITE, *Clerk.*

U. S. CIRCUIT COURT.

THE PROCEEDS OF THE SHIP ANGELIQUE, } ads. FREDERICK SCHUCHARDT et al. }

It is agreed between the parties that the apostles in this cause be corrected by inserting in the testimony for the libellants the following abstract of documents in evidence used upon the trial—that is to say:

Abstract of Papers proved by Libellants.

1. Bill of sale executed by Frederick Schuchardt and Frederick C. Gebhard, as sole owners of the ship Angelique, to Antonio Pelletier, dated 5th May, 1853, whereby, in consideration of $15,000, after reciting in full the certificate of the register of such vessel in the names of the said Schuchardt and Gebhard, as sole owners, given at the port of New York, on the 31st of May, 1847, the vessel was absolutely assigned to the said Pelletier, with a covenant of warranty, duly acknowledged before a notary, on 5th May, 1853, duly recorded, pursuant to act of Congress, in the custom-house, in the port of New York, on 7th of May, 1853, and a certificate of such record was duly endorsed on the bill of sale.

2. Mortgage executed by Antonio Pelletier, of the ship Angelique, to Frederick Schuchardt and Frederick C. Gebhard, dated 7th of May, 1853, whereby he mortgaged to them one undivided half part or moiety of said ship to secure the sum of five thousand dollars at the expiration of six months from the date of the mortgage, being part of the consideration money for the assignment made by said bill of sale, by which mortgage Schuchardt & Gebhard, in case of default in payment of the said sum of money at the time specified, were authorized to sell the said half part or moiety at public auction, and assign the same to any purchaser or purchasers; and out of the money arising from the sale, to

retain the said sum of money and interest thereon, and costs and charges, rendering the overplus to the mortgagor; which said mortgage was duly acknowledged before a notary on the 7th of May, 1853, and duly recorded in the custom-house of the port of New York, on the 9th of May, 1853, pursuant to the provisions of the act of Congress for that purpose, and a certificate of such record duly endorsed on the mortgage. A copy of the mortgage was duly filed in the office of the register of the city and county of New York, on the 30th day of May, 1853, pursuant to the act of the legislature of the State of New York for that purpose, and is hereunto annexed.

3. Bill of sale by Abraham T. Hillyer, marshal of the United States for the southern district of New York, dated the 31st day of August, 1853, to Wood, for the consideration of $6,900 of the ship Angelique, her tackle, &c., by virtue of a certain writ of *venditioni exponas* issued out of the district court of the United States for the southern district of New York, directed and delivered to said marshal. The bill of sale set forth the register of said ship, and grants, bargains and sells unto the said Wood, his executors, administrators and assigns, the ship or vessel called the Angelique, together with her tackle, &c., to have and to hold said ship or vessel, her tackle, &c., to his sole and only proper use, benefit and behoof forever, as fully and amply in all respects as he, the said Abraham T. Hillyer, as marshal, in virtue of the writ of *venditioni exponas* aforesaid, may or ought to grant, bargain and sell the same.

And in the testimony for the respondents is the following, to wit: "Before the commencement of this suit sundry libels had been filed against the vessel to enforce alleged maritime liens on which she had been seized, and was finally condemned and sold."

The following is a schedule of the various libels against the said ship Angelique, her tackle, apparel and furniture, showing the date of filing each libel, the name of the libellant, the nature and amount of the demand, and the date and character of the decrees therein. The final decree in the case of Farrington, proved by the libellants, is considered as the final decree in each case in which a final decree was made, and the interlocutory decree in the same case as the interlocutory decree in all the cases in which there was only an interlocutory decree.

The materials, supplies, passengers, freight and services were for the present intended voyage.

This suit was commenced September 8, 1853.

ERAS. C. BENEDICT,
Advocate for Claimant.
GOUV. M. OGDEN,
Proctor for Appellants.

To all to whom these presents shall come: I, Antonio Pelletier, of the city of New York, send greeting:

Whereas Frederick Schuchard and Frederick C. Gebhard, of the city of New York, have bargained, sold, assigned, transferred, and

set over unto me, Antonio Pelletier, of the same place, the ship "Angelique," known and called by that name: And whereas the said Antonio Pelletier has given his promissory note, bearing date the seventh day of May, one thousand eight hundred and fifty-three, payable to the order of himself and by him endorsed, for the payment of five thousand dollars, at six months after date, a part of the consideration-money on the sale of said ship:

Now, therefore, these presents witness: That I, the said Antonio Pelletier, in consideration of my indebtedness unto the said Frederick Schuchardt and Frederick C. Gebhard, by means of said note, and for and as collateral or further security unto the said Schuchardt and Gebhard for the more sure payment of the said sum of money so secured by said note, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said Frederick Schuchardt and Frederick C. Gebhard, all the undivided half part or moiety of that good ship or vessel called and known by the name of the Angelique, of the burthen of four hundred and twenty $\frac{88}{95}$ tons or thereabouts, and now lying in the port of New York, and all and singular the half part or moiety of her tackle, apparel, and furniture. To have and to hold the undivided half part or moiety of said ship or vessel, and all other the above bargained premises with the appurtenances unto the said Frederick Schuchardt and Frederick C. Gebhard, their executors, administrators, and assigns, to their own use, and as their proper goods and chattels, from henceforth forever. Provided always, and these presents are upon this express condition, that if the said Antonio Pelletier, his heirs, executors, or administrators, do and shall truly pay, or cause to be paid, unto the said Frederick Schuchardt and Frederick C. Gebhard, their executors, administrators, or assigns, the said sum of money mentioned in the said promissory note, hereinbefore mentioned, and at the time therein mentioned, without any deduction or delay, according to the tenor and meaning thereof, and of these presents, that then these presents and everything herein contained shall cease, be void, and of no effect; anything herein contained to the contrary thereof in any wise notwithstanding. And I, the said Antonio Pelletier, for myself, my executors, administrators, and assigns, do promise, covenant, and agree, to and with the said Frederick Schuchard and Frederick C. Gebhard, their executors, administrators, and assigns, by these presents, as follows, that is to say: that I, the said Antonio Pelletier, my executors, or administrators, shall well and truly pay, or cause to be paid, unto the said Frederick Schuchardt and Frederick C. Gebhard, their executors, administrators, or assigns, the said sum of money mentioned in said promissory note, heretofore mentioned according to the tenor and effect thereof, and the true meaning of these presents; and that in case default shall be made in the faithful payment of said promissing note, and the money mentioned therein at the time therein specified, then it shall and may be lawful for, and I, the said Antonio Pelletier, do hereby authorize and empower the said Frederick Schuc-

hardt and Frederick C. Gebhard, their executors, administrators, or assigns, to sell the undivided one-half part or moiety of the said ship or vessel, the Angelique, hereinbefore specified, at public auction, and assign, transfer, and set over the same, and every part thereof, to any purchaser or purchasers, and out of the money arising from such sale to retain the principal and interest which shall then be due on said promissory note, and all costs and charges touching the same, rendering the overplus (if any,) unto the said Antonio Pelletier, or to his executors, administrators, or assigns; and until default be made in the payment of said promissory note, and money therein specified, according to the tenor and effect thereof, the said ship Angelique, her tackle, apparel, and furniture, to remain and continue in the quiet and peaceable possession of the said Antonio Pelletier, to have the full and free enjoyment thereof.

In witness whereof, I have hereunto set my hand and seal, this seventh day of May, one thousand eight hundred and fifty-three.

ANTONIO PELLETIER. [L. S.]

Sealed and delivered in the presence of
H. CUMERDEN, Jr.

STATE OF NEW YORK,
City and County of New York, ss:

On the seventh day of May, eighteen hundred and fifty-three, before me personally appeared Antonio Pelletier, to me known as the individual described in and who executed the foregoing, and acknowledged that he executed the same.

Given under my hand and seal of office, this seventh day of May, one thousand eight hundred and fifty-three.

HENRY CUMERDEN, Jr.,
Notary Public.

REGISTER'S OFFICE,
City and County of New York.

I have compared the preceding with an instrument filed in this office, May 30th, 1853, and do certify the same to be a correct transcript thereof and of the whole of such instrument, which instrument, so as aforesaid filed, is numbered 13,138; and I further certify that there is no official seal belonging to this office.

Dated November 15th, 1853.

GARRET DYCKMAN,
Register.

Endorsed: Custom-house, New York, May 9, 1853.—Rec'd for record at ½ past 2 p. m., and recorded in book of Mortgages, No. 1, pages 420, 421, 422.

G. RUSSELL, *Clerk.*
W. G. KING, *D. Collector.*

At a stated term of the District Court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Tuesday, the twenty-third day of August, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Chas. A. Ingersoll, district judge.

DARIUS FARRINGTON
vs.
THE SHIP ANGELIQUE, her tackle, &c.

The marshal having returned, on the monition issued in the above entitled cause, that he had attached the said vessel, her tackle, apparel and furniture, and had given due notice to all persons claiming the same, that the court would, on this day, proceed to the trial and condemnation of the said vessel, her tackle, &c., should no claim be interposed for the same: Whereupon, on motion of Messrs. Stevens & Hoxie, esquires, proctors for libellants, proclamation was made for all persons interested in the said vessel, her tackle, &c., to appear and interpose their claims; and no person appearing, on like motion it is further ordered, that the defaults of all persons be, and the same are accordingly hereby entered, and that the said vessel, her tackle, &c., be condemned to pay the demands of the libellant.

And it is further ordered, that it be referred to a commissioner of this court to ascertain and compute the amount due the libellant, for supplies and materials, and to report the same to this court with all convenient speed.

And on like motion it is further ordered, that the clerk of this court issue a *venditioni exponas* returnable the first Tuesday of September next, the marshal giving six days' notice of sale, according to law.

CHAS. A. INGERSOLL,
Dist. Judge.

(A copy.) G. W. MORTON, *Clerk.*

At a stated term of the District Court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Wednesday, the twenty-fourth day of August, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Charles A. Ingersoll, district judge.

DARIUS FARRINGTON
vs.
THE SHIP ANGELIQUE, her tackle, &c.

On reading and filing the report of George W. Morton, United States commissioner, to whom the above matter was referred, by which there is reported due the libellant for supplies, &c., for the Angelique, the sum of five hundred and seventy $\frac{4}{100}$ dollars: On motion of Messrs. Stevens & Hoxie, proctors for the libellants, it is ordered, that the report be in all things confirmed, and that the libellant recover in this

action against the ship Angelique, her tackle, &c., the amount reported due, together with his costs to be taxed.

And on like motion, it is further ordered, that out of the proceeds of the sale of the said ship, her tackle, &c., when paid into the registry of this court, the clerk of this court pay to the libellant, or his proctors, the amount reported due, together with his taxed costs.

And on like motion of Messrs. Stevens & Hoxie, proctors for the libellants, it is further ordered, that, unless an appeal be taken to this decree, within the time limited and prescribed by the rules and practice of the court, the clerk of this court distribute the proceeds in satisfaction of this decree.

CHAS. A. INGERSOLL,
District Judge.

(A copy.) GEO. W. MORTON, *Clerk.*

Date of Filing Libel.	Name.	Claim.	Amount.		
July 27	Allaire Works,	Materials,	$651 36	August 30	Default and reference.
27	Lindsay,	Watchman,	43 50	"	"
29	Farrington,	Materials,	570 00	August 23	" " Venditioni Exponas.
				24	Final decree.
Aug. 3	Hoyt,	Materials,	124 46	30	Default and reference.
4	Robbedje *et al.*,	Supplies,	279 57	"	" " Sept. 20, final decree.
6	Heyersdal,	Passenger,	500 00	"	" "
6	Hagstruur,	"	500 00	"	" "
8	Shannon,	Materials,		"	" " Sept. 6, final decree.
8	Forbes,	Contract freight,	1,500 00	"	Order of reference.
9	Stone,	Seaman,	Paid.		
10	Wood,	Materials,	440 00	Sept. 6	Schuchardt & Gebhard appeared—Reference ordered.
11	Robinson,	"	731 12	"	" " " " "
12	Whitehead,	"		"	" " " " "
18	Adams,	Passenger,	500 00	"	" " " " "
18	Trask,	Materials,		"	" " " " " and final decree.
18	4 suits,	Passengers,		"	" " " " "
19	Fogg,	Materials,		"	" " " " " Decree 27th Sept.
21	Bailey,	Passenger,	500 00	"	" " " " "
23	Chandler,	"		"	" " " " "
26	3 suits,	"		"	" " " " "
27	6 "	"		"	" " " " "
29	6 "	"		"	" " " " "
30	3 "	"		"	" " " " "
30	3 "	Services,		"	" " " " "
31	1 "	Seaman,	Paid.		
31	20 "	20 passengers.			
Sept. 1	3 "	3 "			
8	Schuchardt *et al.*,	Mortgage.			

Schuchardt et al. vs. Babbidge et al.

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